

DUPLICATE

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

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In the Matter of

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Emergency Petition of AMSC Subsidiary Corp.)
For Clarification of 47 C.F.R. §§ 54.601(c),)
54.506)

FCC File No.

CC: 96-45

PETITION

AMSC Subsidiary Corporation ("AMSC") hereby petitions the Commission to clarify two of its rules applicable to Universal Service Fund ("USF") support for rural health care providers ("RHCPs"). AMSC is in a position *now* to offer critical emergency communications services to Native Americans throughout the United States, without the need to construct and deploy costly wireline infrastructure.^{1/} To initiate the process of offering these emergency services, AMSC requests that the Commission either issue a preliminary order in its current USF rulemaking on tribal land issues that its rural health care USF program will support the leasing of AMSC's MSS terminals, or waive the rules currently precluding such support. AMSC also seeks clarification of 47 C.F.R. § 54.506 regarding the determination of the "urban rate" for purposes of calculating the discount applicable to the provision of emergency communications service on Native American lands. AMSC requests that the Commission expedite the resolution of these issues so that it can begin to work with Native Americans to provide the emergency services discussed herein.

^{1/} A telecommunications carrier no longer must qualify as an eligible telecommunications carrier to be credited by the Universal Service Administrative Company ("USAC") for serving rural health care providers pursuant to Section 254(h)(1)(A) of the Communications Act of 1934, as amended. See Federal-State Joint Board on Universal Service, Fourteenth Order on Reconsideration, 64 Fed. Reg. 62,120, CC Docket No. 96-45, FCC 99-256 (rel. Nov. 3, 1999).

Background

AMSC seeks to work with Native American tribes, rural public safety organizations, and the Rural Health Care Division ("RHCD") of the USAC to deliver a satellite-based emergency communications service that is available immediately. The Commission has identified a critical and long-standing need for such a service for Native Americans that have not had access to emergency communications. AMSC has the technology in place to provide such a service immediately, using AMSC's Mobile Satellite Service ("MSS") system and specially-adapted emergency communications terminals that would be installed at convenient locations throughout tribal lands that are too remote to be served by terrestrial technology. By granting this petition, the Commission will take an important step forward to meeting this critical need.

There is an urgent need for emergency communications on Native American tribal lands.

The Commission has undertaken a major initiative to address the critical shortage of telecommunications services on Native American tribal lands.^{2/} Hearings conducted earlier this year by the Commission revealed an absence of even basic telecommunications services in these areas, at a time when many Americans have access to the most advanced telecommunications technology in the world. As Chairman Kennard said in the Commission's March hearing, "our Indian peoples are the most distressed population in America." Nowhere is this more evident than in the case of emergency and public safety communications. The lack of access to these communications services by this population puts their very lives at risk.

^{2/} See Extending Wireless Telecommunications Service To Tribal Lands, Notice of Proposed Rulemaking, 64 Fed. Reg. 49128 (1999), WT Docket No. 99-266, FCC 99-205 (rel. Aug. 18, 1999).

AMSC is in an excellent position to meet that need immediately. The limited reach of ground-based communications systems on Native American lands results from a combination of their remote location, frequent terrain obstacles and limits on land use, and what is often a poor local economy. AMSC's system, which initiated service in early 1996, covers all fifty states, including the tribal lands located in rural and remote regions.^{3/} AMSC's satellite system permits it to provide service immediately almost without regard to terrain and without incurring any marginal cost other than the installation of the terminal. AMSC intends to make this unique emergency communications service available by strategically placing special MSS terminals in key locations throughout the reservations that want the service to be provided. AMSC will lease these terminals to the RHCPs. Each terminal will be equipped with a button to communicate directly with local eligible RHCPs. AMSC anticipates that USF funds will subsidize the installation and operational costs.^{4/}

Prior to providing any service, AMSC will complete negotiations with local providers that will be responsible for providing the emergency services and with the Native American tribes that have jurisdiction over the areas served by the emergency communications terminals.

^{3/} In allocating spectrum for AMSC's system, the Commission found that the use of satellite technology offered a unique capability to meet the needs of rural and remote areas for emergency and public safety communications. *See Notice of Proposed Rulemaking, Establishing Rules and Policies for the Use of Spectrum for Mobile Satellite Service in the Upper and Lower L-band, IB Docket No. 96-132, 11 FCC Rcd 11675, at paras. 21-23 (1996).*

^{4/} AMSC will seek universal service support pursuant to Section 254(h) of the Communications Act.

I. AMSC Requests That the Commission Provide USF Support for Rural Health Care Providers' Leasing and Maintenance of AMSC's MSS Terminals

Currently, under the Commission's rules, the RHCP program only supports rural health care providers' purchase of telecommunications services, a category that does not include telecommunications infrastructure or customer premises equipment ("CPE"). At the same time, in its May 1997 USF Order, the Commission acknowledged a general need for development of the telecommunications infrastructure available to rural health care providers, and the Commission indicated that it would initiate a rulemaking on whether and how to support such infrastructure.^{5/} In its Further Notice of Proposed Rulemaking on new approaches to universal service on tribal lands, the Commission asked whether and to what extent improvements to the telecommunications networks required to meet the telecommunications needs of rural health care providers should be supported by the federal universal service mechanism.^{6/}

As described above, there is an urgent and immediate need on tribal lands for telecommunications equipment for emergency communications. In light of this critical need, the Commission should either issue a preliminary order in its current rulemaking that the RHCP program will support the leasing of AMSC's emergency call boxes by tribal authorities, or waive

^{5/} See Federal-State Joint Board On Universal Service, Report and Order, 12 FCC Rcd 8776, paras. 632-35 (1997) ("USF Order"). In the USF Order, the Commission concluded that it has the legal authority to establish rules to implement a program of universal service support for infrastructure development as a method to enhance access to advanced telecommunications and information services under section 254(h)(2)(A) of the Communications Act. 47 U.S.C. § 254(h)(2)(A)

^{6/} See Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Further Notice of Proposed Rulemaking, 64 Fed. Reg. 52738 (1999), CC Docket No. 96-45, paras. 134-139 (rel. Sept. 3, 1999).

the rules currently precluding such support pending the outcome of that proceeding. Without such subsidies, tribal authorities may not be able to deploy AMSC's immediately-available emergency communications system and enjoy the crucial benefits that it promises -- given AMSC's estimate that the cost of leasing and maintaining each terminal would likely be as much as \$388.00 per month.²⁷

II. AMSC Seeks Clarification Regarding the Determination of the "Urban Rate" for Purposes of Calculating the Discount Applicable to the Provision of Emergency Services on Native American Lands

Section 254(h)(1)(A) of the Act provides that telecommunications carriers shall provide telecommunications service to any public or non-profit health care provider at rates that are reasonably comparable to rates charged for similar services in urban areas in that state (the "urban rate"). Accordingly, for purposes of the providing the emergency service described above, AMSC must determine both a rate for a "similar" service and identify the applicable urban area. Regarding the rate issue, because AMSC will only be providing emergency, 911-type services to connect residents of Native American lands to RHCPs, AMSC submits that the "urban rate" is zero. The service AMSC proposes to provide is similar to call boxes on urban streets which allow immediate access to police, fire, and medical services at the push of a button or payphones which permit free calls to be made to emergency 911 service. Accordingly, the RHCP should receive a subsidy of the full per minute charge for a call over AMSC's MSS system.

²⁷ AMSC estimates that it would cost approximately \$213.00 per month for a RHCP to lease an AMSC terminal, with the cost of maintaining each terminal amounting to \$175.00 per month. This estimate is based on the installation of 1,000 terminal units and could vary depending on the number of units that are actually installed.

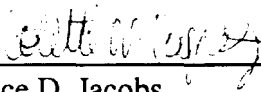
Having determined that the urban rate for the emergency service requested herein is zero throughout the United States, there is no need for AMSC to identify an "urban area." If the Commission disagrees, however, AMSC requests clarification as to the definition of "state" as applied to a Native American land, which most often encompasses one or more states.

Conclusion


Therefore, based on the foregoing, AMSC Subsidiary Corporation urges the Commission to expeditiously process the instant request for clarification.

Respectfully submitted,

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